

EXHIBIT “B”

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SHIRLEY BURTON,

on behalf of himself and the class,

Case No.: 13-cv-1426-Honorable Judge Cogan

Plaintiff,

v.

NATIONS RECOVERY CENTER, INC.

Defendant.

**DECLARATION OF SHIMSHON WEXLER IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS SETTLEMENT AGREEMENT**

I, Shimshon Wexler, of full age, hereby certify as follows:

1. I am an attorney duly admitted to practice law in the State of New York and the Bar of this Court. I am co-counsel of record for Plaintiff, Shirley T. Burton, and I was previously certified by this Court to serve as Class Counsel in the above-entitled action [Doc. 20 and 25]. As such, I am familiar with all of the facts set forth herein and state them to be true. I submit this affidavit in support of Plaintiff's Unopposed Motion for Final Approval of Class Settlement Agreement and Release.

2. I have been admitted to practice law in the State of New York since January 11, 2010 and have remained a member in good standing since that time. I am also admitted to practice law before the United States District Courts for the Eastern District of New York, Southern District of New York, Northern District of New York and Western District of New York. I am also admitted to practice before the bar of the Northern District of Florida as well as the United States Court of Appeals for the Second Circuit.

3. My license to practice law has never been suspended or revoked by the State of New York or by any court. There are no disciplinary proceedings pending against me in any jurisdiction and no discipline has previously been imposed on me in any jurisdiction.

4. I received my bachelor's degree from Touro College in 2003 and graduated from New York Law School in 2009.

5. Just following and prior to my graduation from law school and admission to the New York bar I worked as a paralegal and attorney for the law firm of Herzfeld & Rubin, PC.

6. In connection with my foregoing legal work experience, I have worked on a variety of complex commercial and consumer matters. Since leaving Herzfeld & Rubin, PC in late 2010, I have been engaged as a solo practitioner and have a growing practice representing consumers on claims under the Fair Debt Collection Practices Act, 15 U.S.C. §§1692, *et seq* the Electronic Funds Transfer Act 15 U.S.C. §§1693, *et seq* and the Fair Credit Reporting Act 15 U.S.C. §§1681, *et seq*. I am now, and have been, involved in actions brought as individual claims as well as class actions. My cases have been filed in the Eastern District of New York, Western District of New York and the Southern District of New York.

7. I have been certified to act as sole lead class counsel in the FDCPA consumer class action lawsuits of *Gonzalez v Relin, Goldstein & Crane, LLP*, U.S. District Court, S.D.N.Y. Case No. 12-cv-783-ER and *Fried v. The Bank of Castile*, U.S. District Court, W.D.N.Y. Case No. 12-cv-624-WMS.

8. In the notice that was mailed to the Settlement Class [Doc. 24 pages 12-19], Settlement Class Members were advised that they had the right to opt-out provided they put their request in writing to Class Counsel. Settlement Class Members were also advised that they had the right to object to the settlement provided they put their request in writing to Class Counsel or

Defendant's Counsel. As of this date, my office received no requests from Settlement Class members for exclusion from the settlement. I have not received any objections to the settlement.

9. Fed. R. Civ. P. 23(h) provides, in part, "the court may award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement." I submit that such fees and costs are authorized by both law and the Parties' agreement. See, 15 U.S.C. § 1692k.

10. To date, my office has expended a total of 66.8 hours of total time on this case. Moreover, I expect my office will expend an additional 2 hours of time in concluding the case. My office has also incurred a \$350 filing fee as well as the cost of service on 2 defendants of \$120. Thus, based on my hourly rates my law firm's fees are \$20,040.40 and my law firm's expenses are \$470. A true and correct copy of my billing records and costs incurred are attached hereto as Exhibit 1.

11. The majority of my law practice is contingent fee litigation on behalf of plaintiffs. I regularly represent plaintiffs in contingent fee cases in Federal Courts throughout the State of New York. I frequently work with other plaintiff's lawyers who handle cases on a contingent fee basis and, in that regard, I am generally familiar with the range of contingent fee percentages charged by plaintiff's lawyers.

12. My normal hourly billing rates in my law firm are \$300.00 per hour. I submit that this rate is fair and reasonable and is consistent with the rates in the Eastern District of New York based on my knowledge and experience and in light of the risks inherent in bringing and prosecuting cases such as this one. My hourly rate set forth above is the same as the regular current rate I charge for services in other contingent matters in class action litigation.

In accordance with 28 U.S.C. §1746, I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: February 11, 2014

By: s/ Shimshon Wexler
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EXHIBIT “1”

3/12/13 Review Debt Collection Notices, give client option to bring individual or class action, discuss with client [REDACTED] ---2.2

3/13/13 Research FDCPA case law on issue of "name of creditor" and 3/1/13 case of Eun Joo Lee---- 4

3/13/13 Search PACER to research the defendant.--- 1.3

3/13/13- Draft the complaint, civil cover sheet and summons--- 2.5

3/20/13- Send complaint to the process server--- .3

3/28/13-File affidavit of Service--- .1

3/29/13-File affidavit of Service--- .1

4/10/13 agree to an extension to file an answer and review email from Sanders--.4

4/25/13 review both answers filed by the defendants 2.1

4/26/13 prepare joint letter to the Judge--- 1.2

4/26/13 research and email to Sanders new case law Okyere on vicarious liability for Atlantic--- 1.5

5/2/13 travel and attend conference EDNY---- 2.2

5/3/13 prepare first set of discovery requests to both defendants---- 3.8

5/6/13 prepare and serve first set of discovery---- 4.6

5/8/13 prepare plaintiff's Rule 26 initial disclosures with co-counsel----- 1.3

5/16/13 review initial disclosures from Sanders .8

5/30/13 review discovery response from Nations Recovery----1.7

5/31/13 telephone call---- .3

5/31/13 review letter to Sanders re settlement----.3

6/7/13 review correspondence from Sanders (financials) and discuss with co counsel---- 2.2

Various days in May and June attempt to set a 30b6 deposition date---- 1.5

7/1/13 review updated financials with co counsel----- 1.6

7/18/13 review correspondence for Sanders re settlement for the class and discuss with co counsel—1.2

7/29/13 communications regarding extension of time to adjourn class cert motion---.6

8/27/13, 8/28/13 review and respond re emails and discuss with co-counsel re issue of attorney's fees--1.8

8/28/13 prepare my declaration---- .9

8/29/13 review motion for class cert, settlement agreement, declaration of Horn and proposed order---- 6.2

9/3/13 review order of the Court and discuss with co-counsel----- 2.4

9/9/13 review submission to the Court re response to 9/3 order of the Court--- 1.5

9/16/13 emails re CAFA, other issues----- .3

9/23/13 review ECF filing----- .2

October, November various emails re timesheets----- 1.4

10/16/13 calls from class members----- .7

10/31 review motion to compel----- .4

10/31 review Court's decision----- .2

Total-53.8 hours x 300 p/h = \$16,140

10/31 strategize w/ co counsel re [REDACTED] .5

11/1 review various emails from Sanders re motion to compel, circulate proposed email to Sanders .4

11/4 review various emails, attempt to call Sanders .5

11/5 call with Horn .3

11/6 review various emails re yesterday's call .2

11/11 review Sanders letter to Court .3

11/13 review email from Sanders .1

11/20 review emails .1

11/22 review various email .2

12/3 communicate w/ co counsel re [REDACTED] .4

12/6 review emails and docs concerning errors in class notice 1.7

12/10 review emails .2

12/17 call from class member .2

12/18 call from class member .2

12/23 communicate w/ co counsel and follow up with Sanders re getting back to us with his comments re our time .3

12/24 call from class member .2

12/27 Question from Burton [REDACTED] .3

12/31 review email re notice to att'y general review emails re setup mediation .2

1/9 phone call with mediator .4

1/14 review submission from Sanders to mediator .3

1/14 prepare submission to mediator 1.9

Total—8.9 Hours from 10/31---- 8.9 x 300 p/h = \$2,670

1/22 review ECF filing of a claim form sent to the Court .1

1/29 review with co-counsel of what happened at mediation .1

2/6 review ECF filing .2

2/10 review motion for final approval 3.1

2/10 prepare my declaration .6

New Total- 53.8 hours + 8.9 hours + 4.3 hours= 66.8 hours x \$300 p/h = \$20,040.00



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